

MMB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION

v. :

STEPHEN LASHLEY : NO. 09-307

ORDER

FILED

NOV 03 2011

MICHAEL E. KUNZ, Clerk
By Dep. Clerk

AND NOW, on this 2nd day of November, 2011, upon careful consideration of Defendant's Motion to Dismiss the Indictment (ECF No. 77), Defendant's Motion to Suppress the Testimony of Officer Troy Jones (ECF No. 76), Defendant's Motion to Bifurcate the Trial (ECF No. 81), the parties' briefing, and the evidentiary hearing and oral arguments on September 21, 2011—and for the reasons in the accompanying Memorandum—is hereby ORDERED:

(1) Defendant's Motion to Dismiss the Indictment is DENIED.

(2) The parties are on notice that the Court intends to instruct the jury as necessary to prevent the government from gaining any advantage at the retrial. Specifically, the Court will instruct the jury that Mr. Mack has already received a benefit from testifying against Defendant and that it should therefore consider Mr. Mack's testimony with great caution. The parties are invited to submit a proposed instruction on this point, as well as any other proposed instructions that might lessen the prejudice to Defendant.

(3) The Court STRIKES all references to the "Smith and Wesson, Model SW9VE semiautomatic pistol, serial number RAN3616" in the Superseding Indictment.

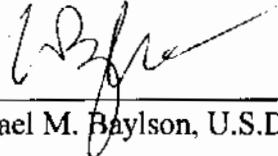
(4) The parties are on notice that, for purposes of Count II, the jury is only entitled to know that Defendant has one prior conviction, not the multiple convictions mentioned in

the Superseding Indictment.

(5) Defendant's Motion to Suppress is DENIED.

(6) Defendant's Motion to Bifurcate the Trial is GRANTED.

BY THE COURT:



Michael M. Baylson, U.S.D.J.

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